

REMARKS

No claims are amended or added. Claims 50-69 are pending in this patent application.

In the Office Action, claims 50-58 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,942,285 to *Dehner* in view of German Patent Publication No. DE 20201310U to *Staeblein*. Claims 59-65 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Dehner* and *Staeblein* and further in view of U.S. Patent No. 2,803,920 to *Salosky*. Claims 66-69 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Dehner* in view of *Staeblein*. Applicants respectfully disagree with the rejections of the pending claims as set forth below.

Referring to *Dehner*, *Dehner* discloses a miniature toy vehicle construction. *Dehner* discloses that the invention relates “particularly to a new and improved assembly for irremovably locking the wheels to the vehicle body.” (emphasis added) (See Col. 1, lines 3-6) *Dehner* also discloses that a “primary object of the present invention is to provide a wheel and axle mounting for miniature toy vehicles which allows quick and relatively inexpensive assembly and yet which securely retains the wheels and axles on the vehicle so that they cannot be removed by a small child to be lost, or even more seriously placed in the mouth or the like.” (emphasis added) (See Col. 1, lines 20-26) *Dehner* also discloses a “rivet 38 serves as a fastener to extend through apertures 18, 19 and the aperture in boss 21 to secure the body shell sections 16 and 17 to the insert 12 and lock the flange 36 therebetween.” (See Col. 2, lines 44-47) Finally, *Dehner* discloses that “[s]ections 16 and 17 are then closed into partially overlapping positions bringing the apertures 18 and 19 into axial alignment with each other and the boss 21 and rivet 38 insert forwardly therethrough and peened to securely lock all of the components in assembled condition. Pan 30 being irremovably locked on the insert provides a smooth bottom surface on the toy and prohibits remove of the wheel and axle assemblies. (emphasis added) (See Col. 2, line 64 – Col. 3, line 4)

Regarding *Staeblein*, the Office Action states that “*Staeblein* discloses a toy vehicle that utilizes magnets to help attach the wheel elements thereto (abstract).” With respect to the modification of *Dehner*, the Office Action states that it “would have been obvious to one of ordinary skill in the art from the teaching of *Staeblein* to couple the first and second components using magnets associated with the pedestals in order to easily assemble and detach the device without tools.”

Applicants respectfully submit that such a statement of motivation to combine is wholly inconsistent with the teachings and disclosure of *Dehner*, particularly those passages identified above. “If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) Applicants submit that the alleged modification of *Dehner* using *Staeblein* is improper because it would render the invention in *Dehner* inoperable for its intended purpose. Accordingly, Applicants submit that the rejection of claims 50-58 over *Dehner* in view of *Staeblein* is improper and request that it should be withdrawn.

For at least the foregoing reasons, Applicants respectfully submit that the combination of *Dehner* and *Staeblein* is improper and fails to teach or suggest the invention as recited in independent claims 50 and 54. Applicants submit that dependent claims 51-53 and 55-58 are allowable for their dependency from claim 50 or claim 54 and for the features that they recite.

Regarding claims 59-65, Applicants submit that the addition of *Salosky* to the modification of *Dehner* in view of *Staeblein* fails to remedy the improper modification of *Dehner* and fails to teach or suggest the invention as recited in the claims. The Office Action states that for the modification of *Dehner* it would have been obvious “to attach components of a toy vehicle by magnets in order to securely attach toy components together in an easily releasable manner.” Such a statement is inconsistent with the teachings and intended purpose of *Dehner*. The discussion above with respect to the improper modification of the invention in *Dehner* is incorporated and repeated here with respect to the rejection of claims 59-65.

Accordingly, Applicants submit that the rejection of claims 59-65 is improper and request that it be withdrawn.

Regarding claims 66-69, Applicants respectfully disagree with the rejection of the claims over *Dehner* in view of *Staeblein* for at least reasons consistent with those set forth above. The Office Action states that the “references disclose the basic inventive concept as described above, substantially as claimed, with the exception of the chassis including first and second magnets that cooperate with the magnets located on the cockpit when disposed proximate to each other.”

Applicants request that the particular elements being used in the rejection of claims 66-69 be identified. For example, with respect to independent claim 66, Applicants request that the Examiner identify the elements and teaching that are used to reject “the first axle being disposed between the first magnet and the third magnet when the cockpit and the chassis are disposed proximate to each other, the first axle being mounted so that it can rotate relative to the cockpit and the chassis” as recited in claim 66.

Consistent with the arguments set forth above, *Dehner* cannot be properly modified by *Staeblein* to teach the invention as recited in claims 66-69. Applicants submit that the rejection of claims 66-69 is improper and request that the rejection of the claims be withdrawn.

In view of the foregoing, the Examiner is respectfully requested to find claims 50-69 to be in condition for allowance. However, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application.

Respectfully submitted by:

Dated: January 29, 2008

EDELL, SHAPIRO & FINNAN, LLC
CUSTOMER NO. 27896
1901 Research Boulevard, Suite 400
Rockville, MD 20850
(301) 424-3640

/Thomas W. Lynch /
Thomas W. Lynch
Reg. No. 42,820